

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In re Applications of)	
)	
Vodafone AirTouch, Plc and Bell Atlantic Corporation)	File Nos. 0000032969, <i>et al.</i>
)	
Platte River Cellular Limited Partnership)	File No. 0000033002
)	
Colorado 7 – Saguache Limited Partnership)	File No. 0000033053
)	
San Isabel Cellular of Colorado Limited Partnership)	File No. 0000033084
)	
Wyoming 1 – Park Limited Partnership)	File No. 0000033037
)	
For Consent to Transfer of Control or Assignment of Licenses and Authorizations)	

MEMORANDUM OPINION AND ORDER

Adopted: March 2, 2005

Released: March 18, 2005

By the Commission:

1. We have before us an Application for Review filed by Platte River Cellular Limited Partnership¹ and its general partner Platte River Cellular, Inc., Colorado 7 – Saguache Limited Partnership and its general partner Sand Dunes Cellular, Inc., San Isabel Cellular of Colorado Limited Partnership and its general partner San Isabel Cellular Inc., Wyoming 1 – Park Limited Partnership and its general partner Yellowstone Cellular, Inc. (collectively, “Cellular Clients”),² and Timothy E. Welch, Esq. (together with Cellular Clients, “Petitioners”).³ The issues raised in the Application for Review have their genesis in a *pro se* complaint filed by Mr. Welch⁴ during the Commission’s consideration of the transfer of control and assignment of licenses from Vodafone AirTouch Plc (“Vodafone”) to Bell Atlantic

¹ The pleadings filed by Mr. Welch all refer to this entity as Platte River Cellular Limited Partnership; the Commission’s records, however, indicate that the licensee’s name has been represented in application filings and authorizations to be Platte River Cellular of Colorado Limited Partnership.

² We employ the nomenclature used in the Application for Review.

³ See Application for Review, filed May 20, 2003, by Cellular Clients and Timothy E. Welch. This filing corrected an earlier filing made on May 16, 2003. References in this Memorandum Opinion and Order are to the May 20, 2003 version of the Application for Review. The specific grants that Petitioners challenge pertain to FCC File Nos. 0000033002, 0000033053, 0000033084, and 0000033037.

⁴ Complaint and Request for Investigation of Witness Tampering and Obstruction of Justice and Request for Referral to DOJ for Criminal Investigation and Request for a Protective Order and Request for Confidentiality, filed December 15, 1999, by Timothy E. Welch (“Complaint”).

Corporation (“Bell Atlantic”) (hereinafter the “Vodafone–Bell Atlantic proceeding”).⁵ The instant Application for Review specifically requests review of the Wireless Telecommunications Bureau’s (“Bureau”) April 28, 2003 Order on Further Reconsideration (“*Second Order on Further Reconsideration*”),⁶ which denied the Petitioners’ July 15, 2002 Second Petition for Further Reconsideration (“Second Further Petition”), as well as all preceding orders in this proceeding.⁷ For the reasons explained below, we dismiss to the extent set forth herein and otherwise deny the Application for Review.

A. Background

2. Each of the four limited partnership petitioners holds a cellular authorization, and three of the four partnerships also hold microwave authorizations. Each of the four corporate petitioners is a controlling general partner in one of the cellular licensees. Verizon Wireless holds non-controlling general partnership interests in the cellular licensee partnerships.⁸

3. Mr. Welch represents the Cellular Clients, which have challenged the filing and grant of four transfer of control applications involving the four licensee petitioners in the Vodafone–Bell Atlantic proceeding.⁹ During that proceeding, Mr. Welch asserted in his *pro se* Complaint that he was effectively prohibited by alleged misconduct of Vodafone’s counsel from filing an opposition to the subject transfer of control applications.¹⁰

⁵ See In re Applications of Vodafone AirTouch, Plc and Bell Atlantic Corp., *Memorandum Opinion and Order*, 15 FCC Rcd 16507 (WTB/IB 2000) (“*MO&O*”) (consenting to the transfer of control and assignment of licenses from Vodafone to Bell Atlantic). After the transaction was consummated, Bell Atlantic became Verizon Communications, Inc. (“Verizon”). This transaction was the means by which Vodafone and Bell Atlantic established a national wireless business through Cellco Partnership (now referred to as Cellco Partnership d/b/a/ Verizon Wireless (“Verizon Wireless”). Verizon Wireless is 55 percent owned and managed by Verizon and 45 percent owned by Vodafone. This information is reflected in a Form 602 filed with the Commission on February 14, 2005.

⁶ In re Applications of Vodafone AirTouch, Plc and Bell Atlantic Corp., *Order on Further Reconsideration*, 18 FCC Rcd 8161 (WTB 2003).

⁷ The Second Further Petition sought reconsideration of the Bureau’s June 13, 2002 Order on Reconsideration, In re Applications of Vodafone AirTouch, Plc and Bell Atlantic Corp., *Order on Further Reconsideration*, 17 FCC Rcd 10998 (WTB 2002) (“*First Order on Further Reconsideration*”), which denied the Petitioners’ March 16, 2001 Petition for Further Reconsideration (“First Further Petition”). The First Further Petition sought reconsideration of the Bureau’s February 14, 2001 Order on Reconsideration, In re Applications of Vodafone AirTouch, Plc and Bell Atlantic Corp., *Order on Reconsideration*, 16 FCC Rcd 3180 (WTB 2001) (“*Order on Reconsideration*”), which denied Mr. Welch’s May 1, 2000 Petition for Reconsideration (“Reconsideration Petition”). The Reconsideration Petition had sought reconsideration of the decision in the *MO&O* to deny Mr. Welch’s Complaint. See *MO&O*, 15 FCC Rcd at 16511 n.17.

⁸ See also Application for Review at Attachment 2—Information From CommNet I Demonstrating That Less Than 50% General Partnership Interests Are At Issue In The Captioned Substantial Transfer Of Control Applications (setting forth more detailed ownership information).

⁹ See ULS File Nos. 0000033002, 0000033053, 0000033084, and 0000033037.

¹⁰ Reconsideration Petition at 2-3. See also Application for Review at 5-6. In brief, Mr. Welch alleges that counsel for Vodafone threatened to withdraw a settlement offer that it had extended to one of Mr. Welch’s other clients (a paging service provider), in another, unrelated proceeding, if Mr. Welch, on behalf of any of his clients, filed an objection to the Vodafone-Bell Atlantic applications. The Application for Review states that Mr. Welch did not learn of these statements until the day that petitions to deny the Vodafone-Bell Atlantic applications were due, that

(continued....)

4. In the *MO&O* that granted the Vodafone–Bell Atlantic applications, the Bureau, together with the International Bureau, determined that Mr. Welch’s Complaint had no merit and, accordingly, denied the Complaint.¹¹ Mr. Welch, still acting *pro se*, filed a petition for reconsideration (“Reconsideration Petition”), arguing that the *MO&O* failed to adequately address the merits of his Complaint.¹² In the *Order on Reconsideration*, the Bureau noted that the allegations made in the Complaint had not presented “a *prima facie* case of misconduct that needed to be explored further before granting the [Vodafone-Bell Atlantic] applications,” and that the Complaint did not have decisional relevance for resolving the transfer of control and assignment issues raised in the Vodafone–Bell Atlantic proceeding.¹³ The Bureau thus concluded that the treatment of Mr. Welch’s submission in the *MO&O* was adequate and denied the Reconsideration Petition.¹⁴

5. Mr. Welch, this time joined by the Cellular Clients, then filed the First Further Petition.¹⁵ The Petitioners argued that the Bureau’s decision in the *Order on Reconsideration* was based on a different rationale than the *MO&O* and failed to provide any reasoning supporting the denial.¹⁶ The Bureau found that the First Further Petition failed to provide any “new facts or arguments that compel reconsideration of [the *MO&O* and *Order on Reconsideration*]” and denied the First Further Petition.¹⁷

6. The Petitioners then filed the Second Further Petition. The Petitioners justified filing this third petition for reconsideration based on the fact that, six days after they filed the First Further Petition, the United States Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”) issued a Judgment¹⁸ that the Petitioners alleged was relevant to the Commission’s consideration of the Vodafone–Bell Atlantic transfer of control/assignment applications.¹⁹ Specifically, the Petitioners claimed that the Judgment “finds that the transferors in that case, a case which involves the same licenses at issue

(...continued from previous page)

he did not file the petition to deny that he had prepared on behalf of the Cellular Clients as a result, and that these statements “successfully prevented the introduction of evidence in the captioned proceeding.” Application for Review at 6.

¹¹ *MO&O*, 15 FCC Rcd at 16511 n.17.

¹² Reconsideration Petition at 1.

¹³ Order on Reconsideration, 16 FCC Rcd at 3181.

¹⁴ *Id.* at 3180-81.

¹⁵ The First Further Petition, which was the Petitioners’ second reconsideration filing, sought to join the Cellular Clients in this proceeding. The prior filings had been submitted solely in the name of Mr. Welch. The *Order on Further Reconsideration* noted that, since it was denying the First Further Petition on the merits, it need not address separately the request to join the Cellular Clients. *First Order on Further Reconsideration*, 17 FCC Rcd at 10998 n.1.

¹⁶ *Id.* at 10999.

¹⁷ *Id.* at 10999, 11001.

¹⁸ *Platte River Cellular Limited Partnership v. FCC*, Judgment, 6 Fed.Appx. 8, 2001 WL 418028 (D.C. Cir. 2001) (“Judgment”).

¹⁹ Second Further Petition at 1. The Petitioners failed to explain why they did not seek to supplement their First Further Petition at the time that the Judgment was issued and instead waited nearly 16 months to seek to introduce it into this proceeding.

instantly, do not ‘enjoy either *de jure* or *de facto* control over the licenses at issue.’”²⁰ Petitioners argued that Vodafone’s predecessor-in-interest for the subject licenses, CommNet Cellular, Inc. (“CommNet”), accordingly did not possess “substantial control” over the limited partnerships that held the licenses and that therefore neither CommNet nor its successors had authority to transfer control of the licenses.²¹

7. In the *Second Order on Further Reconsideration*, the Bureau found that the Judgment provided no basis either for filing a petition for reconsideration under the Commission’s rules or for reconsidering its earlier consent to the transfer of control of the subject licenses from Vodafone to Bell Atlantic.²² The Bureau determined that the Petitioners’ claim that the Judgment finds that Vodafone/CommNet did not exercise substantial control over the licenses²³ is based on a selective quotation that misrepresents what the D.C. Circuit actually said.²⁴ Citing language omitted by Petitioners in their argument, the *Second Order on Further Reconsideration* concluded that the D.C. Circuit’s issuance of the Judgment did not provide Petitioners any basis under the Commission’s rules for filing a third petition for reconsideration, and thus dismissed the Second Further Petition.²⁵ The Bureau also declined to consider the remaining arguments set forth in the Second Further Petition because they had previously been made on multiple occasions by the Petitioners and rejected on multiple occasions by the Bureau.²⁶

B. Discussion

8. For the reasons set forth below, we hold that neither the Cellular Clients, nor Mr. Welch on his own behalf, have met the requirements for participating in this proceeding and that their Application for Review should be dismissed. Nor has it been demonstrated that Vodafone’s allegedly improper behavior provides any grounds for overturning the grant of the subject applications.

²⁰ *Id.* at 1 (quoting Judgment).

²¹ *Id.* at 2. CommNet transferred its interest in the licenses to Blackstone CCI Capital Partners, L.P., which in turn later transferred its interest in the licenses to Vodafone. *See* BCP CommNet, L.P., *Memorandum Opinion and Order*, 15 FCC Rcd 28 (WTB 1999).

²² *Second Order on Further Reconsideration*, 18 FCC Rcd at 8163.

²³ *Second Further Reconsideration Petition* at 2.

²⁴ *Second Order on Further Reconsideration*, 18 FCC Rcd at 8163. *See* para. 12 *infra*.

²⁵ *Second Order on Further Reconsideration*, 18 FCC Rcd at 8163-64.

²⁶ *Id.* at 8164, citing *Order on Reconsideration*, 16 FCC Rcd at 3180-81; *Order on Further Reconsideration*, 17 FCC Rcd at 10999 (both citing LMDS Communications, Inc., *Order on Reconsideration*, 15 FCC Rcd 23747, 23749 (WTB 2000) (“*LMDS Communications*”). The Bureau again reminded Petitioners that the Commission’s rules do not allow reconsideration requests for the purpose of allowing a petitioner to reiterate arguments already presented and addressed. *Second Order on Further Reconsideration*, 18 FCC Rcd at 8164. *See, e.g.*, Policies Regarding the Detrimental Effects of Proposed New Broadcasting Stations on Existing Stations, *Memorandum Opinion and Order*, 4 FCC Rcd 2276, 2277 (1989) (“It is well established that reconsideration will not be granted merely for the purpose of again debating matter on which the agency has once deliberated and spoken. The public interest in expeditious resolution of Commission proceedings is done a disservice if the Commission readdresses arguments and issues it has already considered.”); Simplification of the Licensing and Call Sign Assignment Systems for Stations in the Amateur Radio Service, *Memorandum Opinion and Order*, 87 FCC 2d 501, 505 (1981) (citing *WWIZ, Inc.*, 37 FCC 685 (1964)).

9. With respect to the Cellular Clients, we find that they never filed a timely petition to deny or comments on the applications that were at issue in this proceeding. Nor did the Cellular Clients ever file a timely petition for reconsideration of the *MO&O* consenting to the transfer of control and assignment of the licenses in issue from Vodafone to Bell Atlantic. The First Further Petition, which was the second reconsideration filing in this proceeding (the first having been filed by Mr. Welch *pro se*), is the first time that the Cellular Clients attempted to appear as parties in this proceeding.²⁷

10. Anyone seeking to join in a proceeding that is already at the reconsideration phase must satisfy the requirements of Section 1.106 of our rules.²⁸ Under Section 1.106(b)(1), a person or entity who is not a party to the proceeding must “state with particularity the manner in which the person’s interests are adversely affected by the action taken, and . . . show good reason why it was not possible for him to participate in the earlier stages of the proceeding.”²⁹ As explained more fully below, the Cellular Clients have failed to meet these requirements, and we therefore deny the request for joinder set forth in the First Further Petition.³⁰

11. On the first requirement of Section 1.106(b)(1) – adverse impact of the action on the would-be party – the Cellular Clients provide no convincing argument and proffer no evidence that the grant of the subject applications has caused (or will cause) them any injury. We are unconvinced by their argument that “[b]y granting the captioned substantial transfer of control applications the Commission has eliminated Petitioners’ heretofore exclusive rights to assert substantial control authority over the captioned licensee limited partnerships even though the substantial transfer of control applications were filed by parties which have never been granted substantial control authority by the Commission.”³¹ The Cellular Clients have lost nothing and have suffered no injury as a result of the application grants. Their fear is based on the patently mistaken view that when the Commission granted the “transfer of control” applications, it made some sort of determination that the transferor controlled the licenses. This issue, however, has previously been decided by the Commission and the Court of Appeals for the D.C. Circuit, both of which have made it clear that the filing and processing of the subject applications was proper.

12. Specifically, over four years ago, with respect to an earlier transaction involving the same ownership interests in the licenses at issue in this proceeding, we stated that “[t]he staff correctly noted that its approval of the transfer of CommNet’s interests to Blackstone was a limited one that did not change the nature or level of CommNet’s interest in the licenses or in any way affect Petitioners’ rights in those same licenses.”³² The Court of Appeals agreed with the Commission’s statement in the Judgment,

²⁷ Prior to the grant of the subject applications, Mr. Welch filed his Complaint solely on a *pro se* basis. Similarly, Mr. Welch filed the Petition for Reconsideration of the grant on a *pro se* basis, without the participation of the Cellular Clients. They did not attempt to participate in this proceeding until, at the earliest, the second round of reconsideration petitions (*i.e.*, when Mr. Welch filed the First Further Petition, which was his petition for reconsideration of the Bureau’s denial of his first, *pro se* Petition for Reconsideration of the Bureau applications grant).

²⁸ 47 C.F.R. § 1.106(b)(1).

²⁹ *Id.*

³⁰ While the Bureau did not address separately Mr. Welch’s request for joinder (*see First Order on Further Reconsideration*, 17 FCC Rcd at 10998 n.1), we reach this issue as part of our overall conclusion that the challenges to the grant of the subject applications are procedurally defective.

³¹ Reply to Opposition to Application for Review, filed June 12, 2003, by Cellular Clients and Mr. Welch (“Reply”) at 3-4.

³² In the Matter of Pueblo MSA Limited Partnership, *Memorandum Opinion and Order*, 15 FCC Rcd 5439, 5441 (2000).

specifically citing it and then stating, “[n]or, *contrary to Appellants’ assertion*, does the order endorse the view that CommNet or its successors in interest enjoy *de jure* or *de facto* control over the licenses at issue.”³³ The repeated statements by the Commission and the Bureau that the Commission’s grant of the subject applications does not change the distribution of power and control within the licensee partnerships clearly demonstrate that the Cellular Clients have suffered no injury.³⁴

13. The Cellular Clients also fail to meet the second requirement of Section 1.106(b)(1) – providing a good reason why it was not possible to participate in the earlier stages of the proceeding. The only explanation given for their late attempt to participate is entirely unconvincing. That explanation appears first in the First Further Petition, which argues that the Cellular Clients could not appear as parties earlier because Vodafone’s counsel allegedly threatened one of Mr. Welch’s other clients with economic harm if the Cellular Clients participated in the proceeding.³⁵ This argument, however, does not excuse the failure of the Cellular Clients to participate in the proceeding. Even if there were truth to the allegations of improper threats by Vodafone’s counsel – threats against a totally separate client represented by Mr. Welch – there is no reason that the Cellular Clients themselves could not have filed a petition to deny on a *pro se* basis or through alternative counsel. Accordingly, the Cellular Clients have failed to explain adequately why they did not timely seek reconsideration of the Bureau grant of the subject applications.

14. Moreover, from the time of the defective attempt to secure the Cellular Clients’ participation in the proceeding following the denial of Mr. Welch’s first, *pro se* Petition for Reconsideration, there have been no additional showings that would satisfy the requirements of Section 1.106(b)(1). Accordingly, we hereby deny the request for joinder set forth in the First Further Petition, and we conclude that the Cellular Clients’ subsequent attempts to participate in this proceeding are rendered a nullity. As the Cellular Clients come before this Commission with an Application for Review, we are presented with the same defect: the lack of an adequate showing that the Cellular Clients have been aggrieved by the challenged agency action and that a good reason exists to explain why it was not possible to participate in the earlier stages of the proceeding.³⁶ Accordingly, as pertains to them, the Cellular Clients’ Application for Review must be dismissed.³⁷

15. The Application for Review must also be dismissed as it pertains to Mr. Welch. Section 405 of the Act allows any party in interest, or any person aggrieved or whose interests are adversely affected, to petition for reconsideration of an action by a designated authority.³⁸ Furthermore, pursuant to Section 1.106(b)(1) of the rules, if the petition is filed by a person who is not a “party to the proceeding, the petition shall state with particularity the manner in which the person’s interests are adversely affected by the action taken, and shall show good reason why it was not possible for him to participate in earlier

³³ Judgment at 1 (emphasis added).

³⁴ Rather, Section 310(d) of the Act may require Commission approval of a proposed disposition of interests in a partnership licensee where the interests involved do not in fact control the partnership under the applicable agreement and/or state law.

³⁵ First Further Petition at 6-7.

³⁶ 47 C.F.R. § 1.115(a) (setting forth same basic standard for participating in proceeding as that in Section 1.106(b)(1)).

³⁷ *Id.*

³⁸ 47 U.S.C. § 405; *see* Eagle Radio, Inc., *Memorandum Opinion and Order*, 12 FCC Rcd 5105, 5106 (1997); Ray M. Stanfield, *Memorandum Opinion and Order*, 12 FCC Rcd 3345, 3347 (1997); San Luis Obispo, L.P., *Memorandum Opinion and Order and Forfeiture Order*, 11 FCC Rcd 9616, 9617 (1996).

stages in the proceeding.”³⁹ Therefore, to have validly petitioned for reconsideration of the action granting the transfers, Mr. Welch must have pled facts to establish that he is (1) a party in interest, or (2) aggrieved or adversely affected by the action,⁴⁰ and (3) show good reason why he did not participate in the earlier stages of the proceeding.

16. To qualify as a party in interest, a petitioner for reconsideration generally must have filed a valid petition to deny against the application whose grant the petitioner now seeks to have reconsidered.⁴¹ During the time period when valid petitions to deny could be filed with respect to the applications in issue, Mr. Welch, acting *pro se*, filed a pleading styled “Complaint and Request for Investigation of Witness Tampering and Obstruction of Justice and Request for Referral to DOJ for Criminal Investigation and Request for Confidentiality.” The Bureau determined that this pleading was neither a petition to deny nor a comment upon the transfer applications and found that the remaining requests did not have merit; thus it denied Mr. Welch’s request.⁴² Mr. Welch’s First Petition for Reconsideration did not expressly dispute the Bureau’s determination that the pleading was not a petition to deny or a comment upon the transfer applications.⁴³ Instead, Mr. Welch contended that the Commission was required to consider the *pro se* pleading only because it was a validly filed *ex parte* communication.⁴⁴

17. Even if Mr. Welch’s *pro se* Complaint were to be considered a petition to deny or comment on the applications on procedural grounds, it would still not be a valid petition to deny conferring party status. A valid petition to deny must allege facts sufficient to demonstrate that (1) the action would cause the petitioner injury,⁴⁵ (2) these injuries fairly can be traced to the challenged action, and (3) the injury would be prevented or redressed by the relief requested.⁴⁶ Mr. Welch’s Complaint fails on the first of these requirements: it alleges no injury to Mr. Welch himself arising from a grant of the transfer applications. It alleges only that the Cellular Clients were somehow precluded from filing petitions to deny the transfer applications by threats from Vodafone’s counsel. Accordingly, Mr. Welch is not a party to the proceeding who could validly petition for reconsideration of the action granting the transfers. Nor, for the reasons already discussed, is Mr. Welch “any other person aggrieved or whose interests are adversely affected by the action” within the meaning of Section 405 of the Act that would permit his filing of a petition for reconsideration of the action transferring the licenses. Accordingly, we

³⁹ 47 C.F.R. § 1.106(b)(1).

⁴⁰ San Luis Obispo, L.P., *Memorandum Opinion and Order and Forfeiture Order*, 11 FCC Rcd at 9617; Rainbow Broadcasting Co., *Memorandum Opinion and Order*, 9 FCC Rcd 2839, 2844 n.24 (1994).

⁴¹ San Luis Obispo, L.P., *Memorandum Opinion and Order and Forfeiture Order*, 11 FCC Rcd at 9617.

⁴² *MO&O*, 15 FCC Rcd at 16511 n.17.

⁴³ Nor have Mr. Welch’s subsequent reconsideration petitions expressly disputed the Bureau’s determination that the pleading was not a validly filed petition to deny or a comment upon the transfer applications.

⁴⁴ First Petition for Reconsideration at 2.

⁴⁵ Wireless Co., L.P., *Order*, 10 FCC Rcd 13233, 13235 (1995), citing *Sierra Club v. Morton*, 405 U.S. 727, 733 (1972); see Lawrence N. Brandt, *Memorandum Opinion and Order*, 3 FCC Rcd 4082 (1988); National Broadcasting Co., *Memorandum Opinion and Order*, 37 FCC 2d 897, 898 (1972).

⁴⁶ Wireless Co., L.P., *Order*, 10 FCC Rcd at 13235, citing *Duke Power Co. v. Carolina Environmental Study Group, Inc.*, 438 U.S. 59, 72, 74, 78, 81 (1978).

conclude that Mr. Welch did not file a valid petition for reconsideration of the action transferring the licenses in issue, and hence the Application for Review must be dismissed as it pertains to Mr. Welch.⁴⁷

18. Petitioners' remaining objection to the Bureau's repeated denials of the Petitioners' arguments is based on their claim that the Bureau has effectively disregarded the Complaint filed by Mr. Welch and failed to conduct the proper investigation as to whether Vodafone engaged in improper and actionable abuse of process.⁴⁸ Much of the discussion contained in the Application for Review repeats, verbatim, the claims and statements contained in prior filings made by the Petitioners, as acknowledged in the Application for Review itself.⁴⁹ By way of relief,⁵⁰ Petitioners request the Commission to "determine whether threats were made which prevented the filing of a petition to deny against the captioned applications, whether the public interest is served by grant of the captioned applications, and whether Transferors should retain their ownership interests in the captioned licensee limited partnerships or whether those interests are forfeited in light of the abuse."⁵¹

19. We affirm the staff's repeated rejection of Petitioners' argument that "an allegation of abuse of process is a relevant consideration in determining whether the transfer of control applications of Vodafone and Bell Atlantic should be granted."⁵² The staff properly found in the *MO&O*, the *Order on Reconsideration*, and the *First Order on Further Reconsideration*, that "the allegations here do not have decisional relevance for the issues in this proceeding and do not rise to a level that requires further inquiry in the context of this proceeding."⁵³ Moreover, the staff has correctly concluded that "Mr. Welch's allegations did not present a prima facie case of misconduct that needed to be explored further before granting the applications herein."⁵⁴ Petitioners' mere repetition of the same claims about how important their allegations are does not necessarily make them so. Petitioners' claims have not in the past and do not now support any determination, either factually or legally, that the interests now held by Verizon Wireless in the subject partnerships should be revoked.

⁴⁷ We recognize that the *pro se* Complaint alleges conduct by Vodafone that pertains to the qualifications of Vodafone to be a Commission licensee. The Commission takes care to consider allegations of lack of character of licensees regardless of the manner in which such allegations may come to the Commission's attention. Here, we note that the Application for Review does not allege that Vodafone authorized its counsel to make the particular threats at issue, or that it otherwise approved of its counsel's conduct. Thus, even accepting the allegations of misconduct as true, they do not demonstrate that Vodafone itself engaged in any misconduct, such as directing its counsel to make the alleged threats. Nevertheless, as explained below, we have also determined that the alleged conduct does not have decisional significance with respect to this proceeding.

⁴⁸ See, e.g., Application for Review at iv, v, 7.

⁴⁹ See, e.g., *id.* at 1 n.1, 6 n.6, 7 n.7.

⁵⁰ See 47 C.F.R. § 1.115(b)(4) ("[t]he application for review shall state the form of relief sought and, subject to this requirement, may contain alternative requests").

⁵¹ Application for Review at 25.

⁵² *First Order on Further Reconsideration*, 17 FCC Rcd at 10999-11000; *Order on Reconsideration*, 16 FCC Rcd at 3181; *MO&O*, 15 FCC Rcd at 16511 n.17.

⁵³ *First Order on Further Reconsideration*, 17 FCC Rcd at 11000; *Order on Reconsideration*, 16 FCC Rcd at 3181; *MO&O*, 15 FCC Rcd at 16511 n.17.

⁵⁴ *Order on Reconsideration*, 16 FCC Rcd at 3181.

20. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c), and Section 1.115 of the Commission's Rules, 47 C.F.R. § 1.115, the Application for Review filed by Platte River Cellular Limited Partnership and its general partner Platte River Cellular, Inc., Colorado 7 – Saguache Limited Partnership and its general partner Sand Dunes Cellular, Inc., San Isabel Cellular of Colorado Limited Partnership and its general partner San Isabel Cellular Inc., Wyoming 1 – Park Limited Partnership and its general partner Yellowstone Cellular, Inc., and Timothy E. Welch, Esq. on May 20, 2003, IS HEREBY DISMISSED to the extent set forth herein, and otherwise DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary